

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**KATHERINE ELIZABETH NEIMER, a
minor, by and through JAMES J.
NEIMER and REBECCA NEIMER, her
parents and natural guardians,**

Plaintiffs,

V.

**LANCASTER SCHOOL DISTRICT,
et al.,**

Defendants.

Docket Number 02-CV-4034

ORDER

AND NOW this day of , 2003, upon consideration of Plaintiffs'

Amended Motion to Compel Production of Documents Pursuant to Subpoena, and the
Opposition thereto of the School District of Lancaster, **IT IS HEREBY ORDERED AND
DECREED** that:

1. Plaintiffs' Amended Motion is **DENIED**;
2. Within ten (10) days of the entry of this Order, counsel for the School District of Lancaster shall submit an itemization of the fees and expenses associated with the Opposition to Plaintiffs' Amended Motion to Compel Production of Documents Pursuant to Subpoena; and
3. Plaintiffs' counsel shall pay all such fees within five (5) days after this itemization has been approved by the Court.

BY THE COURT:

Newcomer, S.J.

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**OPPOSITION OF THE SCHOOL DISTRICT OF LANCASTER
TO PLAINTIFFS' AMENDED MOTION TO COMPEL
PRODUCTION OF DOCUMENTS PURSUANT TO SUBPOENA**

The School District of Lancaster (“School District”), by and through its undersigned counsel, opposes Plaintiffs’ Amended Motion to Compel Production of Documents Pursuant to Subpoena (“Plaintiffs’ Amended Motion”) as follows:

1. Denied. The School District is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of Plaintiffs' Amended Motion and therefore the same are deemed denied.

2. Denied. The School District is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of Plaintiffs' Amended Motion and therefore the same are deemed denied.

3. It is denied that “[o]n or about June 11, 2003, Plaintiffs caused subpoenas duces tecum to be served upon ... (a) the [School District of Lancaster].” To the contrary, on or about June 9, 2003, a subpoena directed to the School District was apparently left with a Class II

Enrollment Clerk at the School District's Child Accounting Office located within the Carter Macrae Elementary School at 251 South Prince Street. *See* Curry Affidavit attached as Exhibit 2 to the Memorandum of Law in Opposition to the Amended Motion to Compel Production of Documents and Attendance at Deposition (submitted contemporaneously herewith), ¶¶4, 5; Exhibit A to Exhibit 1 attached thereto. The Child Accounting Office is an ancillary office of the School District, not its main office, and the individual with whom the subpoena was left is neither authorized to accept service for the School District, nor in charge of the Child Accounting Office or the Carter Macrae School. *See* Exhibit 2 to the Memorandum of Law in Opposition to the Amended Motion to Compel Production of Documents and Attendance at Deposition, ¶¶3-5, 7 and 8.

4. Denied. The School District is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of Plaintiffs' Amended Motion and therefore the same are deemed denied.

5. Denied. The School District is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of Plaintiffs' Amended Motion and therefore the same are deemed denied.

WHEREFORE, the School District of Lancaster requests that the Court deny Plaintiffs' Amended Motion to Compel Production of Documents Pursuant to Subpoena. The School District of Lancaster also requests that plaintiffs' counsel reimburse it for the legal fees and expenses incurred in the preparation of this Opposition.

Respectfully submitted,

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Identification No. 50814
Joshua D. Groff
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215-575-7000

DATED: July 16, 2003

Counsel for
the School District of Lancaster

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**MEMORANDUM OF LAW IN SUPPORT OF THE
OPPOSITION OF THE SCHOOL DISTRICT OF LANCASTER
TO PLAINTIFFS' AMENDED MOTION TO COMPEL
PRODUCTION OF DOCUMENTS PURSUANT TO SUBPOENA**

The School District of Lancaster (“School District”), by and through its undersigned counsel, incorporates herein by reference, and adopts, its Memorandum of Law in Support of the Opposition of the School District of Lancaster and Gloria Campbell to Plaintiffs’ Amended

Motion to Compel Production of Documents Pursuant to Subpoena and Attendance at Deposition, and all exhibits in support thereof, as if the same were set forth herein in full.

Respectfully submitted,

Maura E. Fay
Identification No. 50814
Joshua D. Groff
Identification No. 86191
DILWORTH PAXSON LLP
3200 Mellon Bank Center
1735 Market Street
Philadelphia, PA 19103
215-575-7000

DATED: July 16, 2003

Counsel for
the School District of Lancaster

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Opposition was served by first class mail, postage pre-paid, on July 16, 2003 on the following counsel of record:

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Maura E. Fay

DATED: July 16, 2003